

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, AUGUST 26, 2003

The Council of the City of San José convened in Regular Session at 9:30 a.m. in Council Chambers at City Hall.

Present: Council Members - Campos, Chavez, Chirco, Cortese, Dando, Gregory, LeZotte, Reed, Williams, Yeager; Gonzales.

Absent: Council Members - None.

Upon motion unanimously adopted, the City Council recessed to Closed Session at 9:35 a.m. in Room 600 to (A) confer with Legal Counsel with respect to existing litigation pursuant to Government Code Section 54956.9 subsection (a) to consider the case of Horta LLC v. City of San José; (B) confer with Legal Counsel with respect to anticipated litigation of one (1) matter where there is initiation of litigation pursuant to subsection (c) of Section 54956.9 of the Government Code.

By unanimous consent, Council reconvened from Closed Session and recessed at 11:05 a.m. and reconvened at 1:35 p.m. in Council Chambers, City Hall.

Present: Council Members - Campos, Chavez, Chirco, Cortese, Dando, Gregory, LeZotte, Reed, Williams, Yeager; Gonzales.

Absent: Council Members - None.

INVOCATION

Sister Miriam Daniel Fahey, Mission Guadalupana de Santee, an affiliate of the Saint Maria Goretti Parish gave an inspiring speech both in English, and Spanish. (District 7)

PLEDGE OF ALLEGIANCE

Mayor Gonzales led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Vice Mayor Dando, seconded by Council Member Chavez, and carried unanimously, the Orders of the Day, and the Amended Agenda were approved. Vote: 11-0-0-0.

CEREMONIAL ITEMS

- 1.1 **Presentation of a posthumous commendation to the family of Miguel Diaz Ramos to recognize his contributions to the community. (Chavez)**
(Rules Committee referral 8/20/03)

Documents Filed: None.

Discussion/Action: Mayor Gonzales was joined at the podium by Council Member Chavez to present a posthumous commendation to the family of Miguel Diaz Ramos to honor his life and contributions, and his commitment to public service and the improvement of the lives of all San José residents. Mr. Ramos served as a life long community activist, dedicated to improving the lives of working families and underserved communities. As an employee of Sunsweet Packing Company for 25 years, Mr. Ramos served as Executive Board Member and Union Steward for the International Long Shore and Warehouse Union Local 11 and successfully led the women's pay equity struggle by addressing women's issues in a male dominated work place. Mr. Ramos was a member of the Mexican-American Political Association and organized community coalitions.

- 1.2 **Presentation of a commendation to Mary J. Andrade, co-publisher and editor of *La Oferta*, to recognize her for her three first place awards for her bilingual book, *Through the Eyes of the Soul, Day of the Dead in Mexico-Pueblo, Tlaxcala, San Luis Potosi, Hidalgo* and her continuous dedication to the Hispanic community in San José. (Chavez)**
(Rules Committee referral 8/20/03)

Documents Filed: None.

Discussion/Action: Mayor Gonzales was joined at the podium by Council Members Chavez and Reed to present a commendation to Mary J. Andrade for her contributions to the community as it related to her writing and work. Ms. Andrade, co-publisher and editor of *La Oferta*, received first place awards for best travel, best photography and best cover design for her bilingual books. In 1987 Ms. Andrade began her research in Mexico and through her exhibits, has created a vivid testimony of the strong influence of the pre-Hispanic tradition of El Dia de los Muertos, and in the beliefs and lives of its people. Ms. Andrade's photographic collections have been exhibited in museums, galleries, universities, colleges, libraries, and cultural centers in cities throughout the United States, Mexico, Equador, Chile, Egypt, and Germany. Ms. Andrade presented a copy of her book *La Oferta* to Mayor Gonzales and each of the Council Members.

CONSENT CALENDAR

Upon motion by Vice Mayor Dando, seconded by Council Member Williams and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. Vote: 11-0-0-0.

2.1 Approval of City Council Minutes for:

(a) Regular meeting of February 4, 2003

Documents Filed: Minutes of the Regular meeting of February 4, 2003.

Discussion/Action: The Minutes were approved. Vote: 11-0-0-0.

(b) Mayor's State of the City Address of February 5, 2003

Documents Filed: Minutes of the Mayor's State of the City Address of February 5, 2003.

Discussion/Action: The Minutes were approved. Vote: 11-0-0-0.

(c) Regular meeting of February 11, 2003

Documents Filed: Minutes of the Regular meeting of February 11, 2003.

Discussion/Action: The Minutes were approved. Vote: 11-0-0-0.

(d) Regular meeting of February 18, 2003

Documents Filed: Minutes of the Regular meeting of February 18, 2003.

Discussion/Action: The Minutes were approved. Vote: 11-0-0-0.

(e) Regular meeting of February 25, 2003

Documents Filed: Minutes of the Regular meeting of February 18, 2003.

Discussion/Action: The Minutes were approved. Vote: 11-0-0-0.

2.2 Final adoption of ordinances:

(a) **ORD. NO. 26952 – Grants a Commercial Solid Waste and Recyclables Collection Franchise to Recycling and Waste Services, Inc.**

Documents Filed: Proof of Publication of the title of Ordinance No. 26952 executed on August 19, 2003, submitted by the City Clerk.

2.2 Final adoption of ordinances (Cont'd.)

(a) **ORD. NO. 26952** (Cont'd.)

Discussion/Action: Ordinance No. 26952 was adopted. Vote: 11-0-0-0.

(b) **ORD. NO. 26953** – Grants a Commercial Solid Waste and Recyclables Collection Franchise to Sonrise Consolidated, Inc.

Documents Filed: Proof of Publication of the title of Ordinance No. 26953 executed on August 19, 2003, submitted by the City Clerk.

Discussion/Action: Ordinance No. 26953 was adopted. Vote: 11-0-0-0.

(c) **ORD. NO. 26957** – Rezones certain real property situated on the west side of Camden Avenue at the westerly terminus of Kooser Road to CN Commercial Neighborhood Zoning District.

Documents Filed: Proof of Publication of the title of Ordinance No. 26957 executed on August 22, 2003, submitted by the City Clerk.

Discussion/Action: Ordinance No. 26957 was adopted. Vote: 11-0-0-0.

2.3 Approval to award a contract for the Alum Rock Park Entrance Project.

(a) **Report on bids and award of contract for the Alum Rock Park Entrance Project to the low bidder, HRB Construction, Inc. in the amount of \$554,325, and approval of a contingency in the amount of \$55,500.**

(b) **Adoption of the following appropriation ordinance and funding source resolution amendments in the City-Wide Construction and Conveyance Tax Fund:**

(1) **Increase the appropriation to the Department of Parks, Recreation and Neighborhood Services for the Alum Rock Park Penitencia Creek Entrance Project by \$603,000.**

(2) **Increase the Beginning Fund Balance Estimate by \$525,000.**

(3) **Reduce the Ending Fund Balance by \$78,000.**

CEQA: Exempt, PP02-08-213. Council Districts 4 and 5. (Public Works/City Manager's Office)

(Deferred from 6/24/03 – Item 2.42 and 8/12/03 – Item 2.3)

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated June 2, 2003, recommending award of contract, with related contingency, to the low bidder, HRB Construction for the Alum Rock Park Entrance Project. (2) Supplemental memorandum from Director of Public Works Katy Allen, dated August 6, 2003, transmitting additional information after bids were opened.

2.3 (Cont'd)

Discussion/Action: The award of the contract, with related contingency, to the low bidder, HRB Construction, was approved and execution of the agreement authorized, and Ordinance No. 26961, entitled: "An Ordinance of the City of San José Amending Ordinance No. 26916 to Appropriate Monies in the City-Wide Construction and Conveyance Tax Fund for the Alum Rock Park Penitencia Creek Entrance Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", and Resolution No. 71718, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 71608 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2003-2004 to Adjust Revenues in the City-Wide Construction and Conveyance Tax Fund", were adopted. Vote: 11-0-0-0.

2.4 **Approval of recommended changes to the City of San José Bail Schedule and direction to the City Attorney to submit the recommended changes in the Bail Schedule to the Superior Court Bail Committee. (City Attorney's Office)**

Documents Filed: Memorandum from City Attorney Richard Doyle, dated August 14, 2003, recommending approval of recommended changes to the City of San José Bail Schedule and direction to the City Attorney to submit the recommended changes in the Bail Schedule to the Superior Court Bail Committee.

Discussion/Action: The recommended changes to the City of San José Bail Schedule were approved, and the City Attorney was authorized to submit the recommended changes in the Bail Schedule to the Superior Court Bail Committee. Vote: 11-0-0-0.

2.5 **Acceptance of the Office of the City Auditor's monthly *Report of Activities and Findings through July 15, 2003.* (City Auditor)**

Documents Filed: The Report of Activities and Findings through July 15, 2003, from the Office of the City Auditor.

Discussion/Action: The Report of Activities and Findings from the Office of the City Auditor, was accepted. Vote: 11-0-0-0.

2.6 **Approval for the City Manager to travel to Charlotte, North Carolina, September 21-24, 2003, for ICMA's 89th Annual Conference, costs to be paid by the City Manager's Office. CEQA: Not a Project. (City Manager's Office)**

Documents Filed: Memorandum from City Manager Del Borgsdorf, dated August 7, 2003, requesting authorization for the City Manager to travel to Charlotte, NC, September 21-24, 2003, for ICMA's 89th Annual Conference.

Discussion/Action: The City Manager's travel request to Charlotte, NC, September 21-24, 2003, for ICMA's 89th Annual Conference, was approved. Vote: 11-0-0-0.

- 2.7 Approval to accept funds from the Santa Clara County's Operational Area share.**
- (a) Approval for the City Manager to accept program funds for the FY 2002 supplemental appropriations grant for Citizen Corps and Cert, the FY 2002 supplemental appropriations grant for Emergency Operations Planning, the FY 2002 State Domestic Preparedness Grant program, and the FY 2003 Emergency Management Performance Grant from the Santa Clara County's Operational Area share, in an amount not to exceed \$750,000.**
 - (b) Adoption of the following appropriation ordinance and funding source resolution amendments in the General Fund to do the following:**
 - (1) Increase the Citywide Appropriation of \$750,000 to the City Manager's Office for the Metropolitan Medical Task Force.**
 - (2) Increase the Revenue from the Federal Government by \$750,000.**
- CEQA: Not a Project. (Emergency Services/City Manager's Office)**

Documents Filed: Memorandum from Director Office of Emergency Services Frances Winslow, and Budget Director Larry Lisenbee, dated August 6, 2003, recommending authorization of City Manager to accept said program funds, and adoption of said appropriation ordinance and said funding source resolution amendments.

Discussion/Action: The program funds for the Santa Clara County's Operational Area share of the above Federal grants, not to exceed \$750,000 was approved and its execution authorized, and Ordinance No. 26962, entitled: "An Ordinance of the City of San José Amending Ordinance No. 26916 to Appropriate Monies in the General Fund to the City Manager's Office for the Metropolitan Medical Task Force; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", and Resolution No. 71719, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 71608 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2003-2004 to Adjust Revenues in the General Fund", were adopted. Vote: 11-0-0-0.

- 2.8 Adoption of a resolution authorizing the City Manager to execute a project approval form pursuant to the FY 2003-04 Master Agreement with the San José Conservation Corps to carry out Community Improvement Activities in an amount not to exceed \$115,000, for the period September 2, 2003 to June 30, 2004, for the stenciling of approximately 10,000 public right-of-way storm drain inlets. CEQA: Exempt, PP03-07-241. (Environmental Services)**

Documents Filed: Memorandum from Director of Environmental Services Carl W. Mosher, dated August 6, 2003, recommending adoption of said resolution.

Discussion/Action: Resolution No. 71720, entitled: "A Resolution of the Council of the City of San José Authorizing the City Manager to Execute a Project Approval Form Pursuant to the FY 2003-2004 Master Agreement with the California Conservation Corps for Storm Drain Stenciling in an Amount Not To Exceed \$115,000", was adopted. Vote: 11-0-0-0.

- 2.9 Approval of the first amendment to office space lease with Menara Corporation, reducing the leased area from 4,900 rentable square feet to 4,500 usable square feet, reducing the monthly rent from \$13,879.25 to \$8,735.00, and increasing the amount of notification required to cancel the lease from 60 days to 90 days. CEQA: Exempt, PP03-08-257. (General Services)**

Documents Filed: Memorandum from Director of General Services Jose Obregon, dated August 6, 2003, recommending approval of the First Amendment to the said Office Space Lease Between the City of San José and Menara Corporation.

Discussion/Action: The First Amendment to Office Space Lease Between the City of San José and Menara Corporation was approved, and its execution authorized. Vote: 11-0-0-0.

- 2.10 Adoption of the following appropriation ordinance and funding source resolution amendments in the Council District 3 Construction and Conveyance Tax Fund:**
- (a) Increase the appropriation to the Parks, Recreation and Neighborhood Services Department for the Coyote Creek Trail Study by \$144,000.**
 - (b) Increase the Earned Revenue estimate by \$144,000.**
- CEQA: Exempt, PP03-07-236. Council District 3. (Parks, Recreation and Neighborhood Services/City Manager's Office)**

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara L. Hensley, and Budget Director Larry Lisenbee, dated August 6, 2003, recommending adoption of said appropriation ordinance and said funding source resolution amendments.

Discussion/Action: Ordinance No. 26963, entitled: "An Ordinance of the City of San José Amending Ordinance No. 26916 to Appropriate Monies in the Council District 3 Construction and Conveyance Tax Fund for the Coyote Creek Trail Study Project; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", and Resolution No. 71721, entitled: "A Resolution of the Council of the City of San José adopted. Vote: 11-0-0-0.

- 2.11 (a) Approval of the proposed revision to the 2001-03 Spending Plan for the Local Law Enforcement Block Grant (LLEBG) Fund.**
- (b) Adoption of the following amendments to the annual appropriation ordinance and the annual funding sources resolution in the Local Law Enforcement Services Fund (Fund 415) for Fiscal Year 2003-04:**
- (1) Increase the LLEBG 2001-03 appropriation for the Police Department in the amount of \$27,278.**
 - (2) Increase the Earned Revenue by \$27,278.**
- CEQA: Not a Project. (Police/City Manager's Office)**

2.11 (Cont'd.)

Documents Filed: Memorandum from Budget Director Larry Lisenbee, and Chief of Police William M. Lansdowne, dated August 6, 2003, recommending approval of the proposed revision to the 2001-03 Spending Plan for the LLEBG Fund, and adoption of the amendments to the said annual appropriate ordinance and the said annual funding sources resolution in the Local Law Enforcement Services Fund.

Discussion/Action: The 2001-03 Spending Plan revision for the Local Law Enforcement Block Grant was approved and its execution authorized, and Ordinance No. 26964, entitled: "An Ordinance of the City of San José Amending Ordinance No. 26916 to Appropriate Monies in the Local Law Enforcement Block Grant for Revisions to the 2001-2003 Local Law Enforcement Block Grant Spending Plan; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", and Resolution No. 71722, entitled: "A Resolution of the Council of the City of San José Amending Resolution No. 71608 Setting Forth the Estimated Sources of Funds for the Fiscal Year 2003-2004 to Adjust Revenues in the Local Law Enforcement Block Grant Fund", was adopted. Vote: 11-0-0-0.

2.12 Adoption of the following amendments to the annual appropriation ordinance in the State Drug Forfeiture Fund (Fund 417) for Fiscal Year 2003-04:

- (a) **Increase the Personal Services appropriation for the Police Department in the amount of \$51,000.**
- (b) **Increase the Non-personal and Equipment appropriation for the Police Department in the amount of \$279,200.**
- (c) **Decrease the Ending Fund Balance by \$330,200.**

CEQA: Not a Project. (Police/City Manager's Office)

Documents Filed: Memorandum from Budget Director Larry Lisenbee, and Chief of Police William M. Lansdowne, dated August 6, 2003, recommending adoption of said amendments to the annual appropriation ordinance in the State Drug Forfeiture Fund for Fiscal Year 2003-04.

Discussion/Action: Ordinance No. 26965, entitled: "An Ordinance of the City of San José Amending Ordinance No. 26916 to Appropriate Monies in the State Drug Forfeiture Fund for the Relocation of the Police Property Warehouse for Fiscal Year 2003-2004; and Providing that this Ordinance Shall Become Effective Immediately Upon Adoption", was adopted. Vote: 11-0-0-0.

- 2.13 Approval of Contract Change Order No. 19 for the Norman Y. Mineta San José International Airport- Runway 30L Reconstruction Project with R & L Brosamer, Inc., in the credit amount of \$16,241, and no change in contract time. CEQA: Resolution Nos. 76380 and 71451, PP03-08-256. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated August 6, 2003, approval of Contract Change Order No. 19 for the Norman Y. Mineta San José International Airport Runway 30L Reconstruction Project with R&L Bosamer, Inc., in the credit amount of \$16,241, and no change in contract time.

Discussion/Action: Contract Change Order No. 19 with R&L Brosamer, Inc. was approved and execution of the change order authorized. Vote: 11-0-0-0.

- 2.14 Acceptance of the Second Quarter 2003 San José Arena Authority Ticket Distribution Program Report. CEQA: Not a Project. (San José Arena Authority)**

Documents Filed: Memorandum from Chris Morrissey, Executive Director, dated August 6, 2003, recommending acceptance of the Second Quarter 2003 San José Arena Authority Ticket Distribution Program Report.

Discussion/Action: The Second Quarter 2003 San José Arena Authority Ticket Distribution Program Report was accepted. Vote: 11-0-0-0.

- 2.15 Adoption of a resolution: (1) declaring nine (9) parcels of City-owned property located in Council Districts 4, 5, 6, 9, and 10, surplus to the needs of the City; and (2) setting the time and date for the opening of sealed bids and an oral auction of the nine properties for 7:00 p.m., Monday, October 20, 2003. CEQA: Exempt, PP00-02-023. Council Districts 2, 4, 5, 6, 9, and 10. (General Services) (Deferred from 8/12/03 – Item 2.8 and 8/19/03 – Item 2.11)**

Documents Filed: Replacement memorandum from Director of General Services Jose Obregon, dated August 20, 2003, recommending adoption of said resolution.

Discussion/Action: Resolution No. 71723, entitled: “A Resolution of the Council of the City of San José Declaring Nine Parcels of Real Estate Surplus to the Needs of the City and Authorizing the Auction of Such Parcels on October 20, 2003, at 7 p.m.”, was adopted. Vote: 11-0-0-0.

- 2.16 Adoption of a resolution to enable specific City staff members to apply for and receive Federal financial assistance for disaster relief and emergency planning and management purposes to conform to current Federal law. CEQA: Not a Project. (Emergency Services) (Rules Committee referral 8/20/03)**

Documents Filed: Memorandum from Director Office of Emergency Services Frances Winslow, dated August 19, 2003, recommending adoption of said resolution.

2.16 (Cont'd.)

Discussion/Action: Resolution No. 71724, entitled: "A Resolution of the Council of the City of San José Approving a New Signature Resolution to Conform to Current Federal Law", was adopted. Vote: 11-0-0-0.

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – August 13, 2003 Vice Mayor Dando, Chair

Documents Filed: Rules Committee Report dated August 13, 2003.

(a) Redevelopment Agency items reported out at Redevelopment Agency meeting

(b) City Council

(1) Review August 26, 2003 Draft Agenda

The Committee recommended approval of the August 26, 2003 City Council agenda with one change.

(2) Add New Items to August 19, 2003 Agenda

The Committee recommended one addition to the August 19, 2003 City Council agenda.

(3) List of Reports Outstanding. Attachment: Report from City Manager, dated August 12, 2003, transmitting reports outstanding for August 19, 2003.

The Committee noted and filed the City Manager's report listing two staff reports outstanding for the August 19, 2003 Council agenda.

(4) Add New Items to August 19, 2003 General Plan Agenda

There were no items added.

(c) Legislative Update

(1) State

There was no report.

3.2 Report of the Rules Committee – August 13, 2003 (Cont'd.)
Vice Mayor Dando, Chair

(c) Legislative Update (Cont'd.)

(2) Federal

- (a) Federal Lobbyist Monthly Report. Attachment: Memorandum from Director Intergovernmental Relations Betsy Shotwell, dated August 6, 2003, transmitting Federal Lobbyist Monthly Report.

The Committee accepted the Federal Lobbyist Monthly Report for June 2003.

(d) Meeting Schedules

(1) Approval of:

- (a) Five City Council Study Sessions on “Getting Families Back to Work”
- (b) Special Driving Strong Economy Committee Meeting
- (c) Cancellation of City Council Evening Session
- (d) Cancellation and rescheduling of General Plan Hearings. Attachment: Memorandum from Assistant Deanna Santana to the City Manager, dated August 6, 2003, recommending approval of the proposed dates for the City Council Study Sessions.

The Committee recommended approval of the following:

- Five City Council Study Sessions on “Getting Families Back to Work” to be held August 21, 22, 25, 27, and 28, 2003.
- A special Driving Strong Economy Committee meeting on August 25, 2003, 10 a.m. to 12 noon at City Hall in Room 204.
- Cancellation of the City Council evening session on October 7, 2003 and scheduling an evening session on September 30, 2003.
- Cancellation of the General Plan hearing set for November 18, 2003 and scheduling General Plan hearings on December 2, 2003 and December 16, 2003 at 7:00 p.m.

- (e) The Public Record. Attachment: Memorandum from City Clerk Patricia L. O’Hearn, dated August 7, 2003, transmitting the items to Administration, and items filed on the Public Record for the period June 11 – August 5, 2003.

The Committee noted and filed the Public Record.

(f) Boards, Commissions and Committees

(1) Suggestion Award Commission

This item was reported during the August 19, 2003 City Council Meeting.

3.2 Report of the Rules Committee – August 13, 2003 (Cont'd.)
Vice Mayor Dando, Chair

- (g) Council Referrals for Assignment to Administration or Council Appointee

There were none.

- (h) Administrative Reviews and Approval. Attachment: Memorandum from City Clerk Patricia L. O'Hearn, dated August 8, 2003, submitting Council General Travel Budget.

- (1) Request from Vice Mayor Dando to use Council General funds to attend the League of California Cities' Transportation, Communications & Public Works Policy Committee Meeting in Ontario, CA, July 26-30, 2003

The Committee approved the use of Council General funds by Vice Mayor Dando to attend the League of California Cities' Transportation, Communications & Public Works Policy Committee Meeting in Ontario, California, June 26-30, 2003.

- (2) Request from Council Member LeZotte to use Council General Funds to attend the League of California Cities Transportation Policy Committee Meeting in Ontario, CA, June 27, 2003.

The Committee approved the use of Council General funds by Council Member LeZotte to attend the League of California Cities' Transportation Policy Committee Meeting in Ontario, California, June 27, 2003.

- (3) Oral report on status of the Hayes Mansion RFQ. Attachment: Hayes Mansion Conference Center RFI and RFP process timetable, dated August 13, 2003.

Deputy City Manager Kay Winer reviewed the Hayes Mansion Conference Center RFI and RFP process. The Committee noted and filed the timetable.

- (4) Approve City Auditor's 2003-04 Workplan. Attachment: Letter from City Auditor Gerald A. Silva, dated July 31, 2003, recommending assignments on the City Auditor's 2003-04 Audit Work Plan.

The Committee recommended approval of the City Auditor's 2003-04 Audit Work Plan.

- (i) Oral communications

None were presented.

3.2 Report of the Rules Committee – August 13, 2003 (Cont'd.)
Vice Mayor Dando, Chair

(j) Adjournment

The meeting was adjourned at 2:30 p.m.

Discussion/Action: Upon motion by Vice Mayor Dando, seconded by Council Member Williams, and carried unanimously, the Rules Committee Meeting Report, and the actions of August 13, 2003, were accepted. Vote: 11-0-0.

3.3 Report of the Making Government Work Better Committee – August 13, 2003
Council Member Campos, Chair

Documents Filed: Report of the Making Government Work Better Committee dated August 13, 2003.

- (a) Review of Strong Neighborhoods Initiative Performance Measurements Memorandum. Attachment: Memorandum from City Auditor Gerald A. Silva, dated July 29, 2003, transmitting *A Review of Strong Neighborhoods Initiative Performance Measurements* Report.

The Committee accepted the Staff Report.

- (b) Neighborhood Development Center Audit Report. Attachment: Report from the Office of the City Auditor, *An Audit of the Neighborhood Development Center of the Department of Parks, Recreation, and Neighborhood Services*, dated July 2003.

The Committee accepted the Staff Report.

- (c) Environmentally Preferable Procurement Report

No Committee Action taken. This item was deferred to September.

- (d) Follow-up Report on the Targeted Neighborhood Clean-up Program. Attachment: Memorandum from Director of Planning, Building and Code Enforcement Stephen M. Haase, and Director of Environmental Services Carl W. Mosher, dated August 4, 2003, transmitting the *Neighborhood Cleanup Program Follow-up* Report.

The Committee accepted the Staff Report.

- (e) Oral petitions

William Garbett spoke on the Strong Neighborhoods Initiative and the Neighborhood Clean Up program.

3.3 Report of the Making Government Work Better Committee – August 13, 2003 Council Member Campos, Chair (Cont'd.)

(f) Adjournment

The Committee was adjourned at 3:20 p.m.

Discussion/Action: Upon motion by Council Member Campos, seconded by Council Member Reed, and carried unanimously, the Making Government Work Better Committee Report, and the actions of August 13, 2003, were accepted. Vote: 11-0-0-0.

3.4 Public Hearing on the:

- (a) Approval of the 2003-2004 General Fund Rebalancing Plan recommended in the memorandum and detailed in Attachments A and B of the report.**
- (b) Consistent with prior direction, unfreeze 26 of the 28 General Fund capital projects previously placed on hold pending resolution of the State budget as detailed in Attachment C, and approve the elimination of two of the frozen General Fund capital projects as part of the above-described rebalancing strategy.**
- (c) Direct staff to return with appropriation ordinance and funding sources resolution amendments and amendments to applicable fee resolutions necessary to implement the above actions.**

(City Manager's Office)

Documents Filed: (1) Memorandum from Mayor Gonzales, dated August 15, 2003, transmitting Council Appointee Budget Reduction Plans for City Council consideration as part of the General Fund Rebalancing Plan. (2) Memorandum from City Manager Del Borgsdorf, dated August 13, 2003, recommending approval of the 2003-2004 General Fund Rebalancing Plan, unfreeze 26 of the 28 General Fund capital projects pending resolution of the State budget, approve the elimination of two of the frozen General Fund capital projects, direct Staff to return with Appropriation and Funding Sources Resolution amendments and amendments to applicable fee resolutions necessary to implement the above actions. (3) Supplemental memorandum from City Manager Del Borgsdorf, dated August 20, 2003, stating correction on Page 4, paragraph 3, first sentence reads "...of 39.88 positions (8.0 vacant) and ...", the text should read, "... (8.0 filled) ..."

Discussion/Action: Mayor Gonzales opened the public hearing. Budget Director Larry Lisenbee gave a slide presentation of the 2003-2004 General Fund Rebalancing Plan. Mayor Gonzales stated today is a public hearing, and Council will not be voting on this issue until next Tuesday, September 2, 2003.

Council Member Reed remarked in regard to the vehicle license fees, there is another proposal going through the Legislature that may change that again, replace it with a couple other taxes, which would be subject to the Proposition 98 division, meaning 40% of it would go to school districts, and asked if that is done would the City have more deficit. Budget Director Larry Lisenbee replied the City would be back at the point in

3.4 (Cont'd.)

January 2003, when the Governor's proposed budget was speaking about the \$30 million plus dollars of backfill, which is now actually collections. He stated if the State rolls back the fee again, the City is vulnerable to the loss of that revenue, and the City is definitely at risk going forward. Council Member Reed replied the other part of that fee is the litigation, and the City is assuming it will go into effect October 1, 2003.

Vice Mayor Dando commented that at a time when the City is attempting to accomplish more regional planning and coordination of safety programs, the City would be cutting the intergovernmental coordination, asked how does that affect the City's overall program that the Office of Emergency Services now provides, and what impact would that have on that program. Director of Emergency Services Frannie Edwards Winslow replied the existing staff may be able to fill in the important meetings for intergovernmental coordination but with a diminished budget citywide, staff will be doubling up on positions. Vice Mayor Dando asked if there is an impact on the work that the City is doing countywide with the increased safety programs in regard to homeland security. Director of Emergency Services Winslow replied Staff has been able to keep the Community Emergency Response Team staff intact and that is the principal outreach effort in the community, however homeland security is the first priority.

Vice Mayor Dando commented on the police overtime for neighborhood traffic calming being reduced by 44%, and asked what impact would that have on the neighborhood traffic calming programs. Deputy Chief of Police Adonna Amoroso replied this has to do with the cruise management team, which is not traffic calming, and Staff will be supplementing the program as accomplished previously, with the entertainment zone and patrol personnel in various teams to control the cruise downtown. Vice Mayor Dando asked if this reduction would cause any shift of programs currently in traffic calming, and Deputy Chief Amoroso replied this reduction does not require the department to cut back any of the personnel who perform the cruise management on a full time basis.

Council Member Campos stated in reference to the Parks Maintenance, Staff is eliminating two grounds workers, one gardener, and one maintenance work, and asked how long those positions have been vacant, why is Staff eliminating them, and how will that affect the level of service. Deputy Director of General Services Anna Jatczak replied that those positions have been vacant from approximately 8 months to 2 years. She stated the Parks inventory has been increasing over the past few years, with an anticipated increase next year; and Staff is expecting some level of service reduction. Council Member Campos asked if Staff knew how much the inventory for Parks would increase within the next two years, and Deputy Director Jatczak replied she would obtain detailed information and distribute it to Council.

Council Member Gregory stated in regard to the Library staffing on Page B3, there is one library clerk, and two librarian positions that will be eliminated, and asked which Districts will be impacted the most, and Budget Director Larry Lisenbee replied that Library Director Jane Light will get back to him. Council Member Gregory asked if the

3.4 (Cont'd.)

Parks, Recreation and Neighborhood Services would be experiencing the impact of this problem in regard to which District and which park. Deputy Director Jatczak replied that Staff plans to redistribute those resources to accommodate all of the citywide needs, and has not determined exactly where the service level reductions will occur, but they will not be concentrated in any specific District or park. Council Member Gregory asked for a determination of how it will impact the city, and Deputy Director Jatczak replied she would obtain that information for Council.

Referring to Attachment C, Council Member LeZotte expressed concern about the City reinstating into the Capital Program some of these capital projects, not knowing whether or not there is Operating and Maintenance funds available for them. She stated this topic was discussed during the budget sessions, regarding how the City will be delaying new facilities because of the lack of personnel, and the large sums of money going back into projects that are either completing or initiating capital projects. She asked if the City delays some of these projects another year to see what are operating costs will be next July, what will the environment be like financially. City Manager Del Borgsdorf replied Staff has to examine the Operating and Maintenance costs with all of the City's capital projects, and this list is a fairly small component of the overall Capital Program. City Manager Borgsdorf stated Staff has to review the Operating and Maintenance expense to the extent that it is major or might be benefited by adjusting schedules. He stated these projects are both small enough and have been in the queue long enough that the City can absorb them, and Staff is aggressively trying to redesign its service delivery in various areas, whether it is library branches, community centers or ball field maintenance in order to obtain the highest quality possible, with a shrinking workforce, both by holding vacancies, and then by actually eliminating positions. He stated if Staff has a specific project and an operating maintenance problem, Staff will return to Council for discussion. Council Member LeZotte asked if some of these projects come on line, what is the operating impact. Budget Director Larry Lisenbee replied that Staff will provide a schedule with a timeline forecast for the Operating and Maintenance impacts of the Capital Projects as indicated on Attachment C.

Council Member Yeager stated the City Clerk's office is deleting one filled Office Specialist position, and asked how that will impact the office. City Clerk Patricia L. O'Hearn replied this would be the second filled position deleted. She stated this position is front office, and would affect the overall customer service level, the telephones, front counter activities, bid openings, and legal publications. She commented the department does not have the staff to maintain that position full time but preliminary arrangements have been made with the Call Center to help with the telephone calls, and other personnel would be trained as much as possible on the additional front counter activities. Council Member Yeager asked if this is approved, when the public enters the City Clerk's office, is there coverage at the front desk. City Clerk O'Hearn replied there will not be full time coverage but there will be a bell for service.

3.4 (Cont'd.)

Referring to the Special Accounting Fee on Page B8, Council Member Gregory expressed concern about charging employees for routine matters, and asked what is basic, and non-basic service. Director of Finance Scott P. Johnson replied Staff is referring to instances when employees come to the Payroll unit and request copies of either check stubs or W2's that have already been distributed, and this disrupts the normal operations of the payroll process. Director Johnson stated Staff's proposal is to charge a fee for providing second, third, and fourth copies of those documents, which is \$15.00 for the most recent W2 year, and \$20.00 for prior years.

Speaking on the issue of the 2003-2004 General Fund Rebalancing Plan were Saul Wachter, Affordable Housing Network, Greg Colburn, Dr. Mojdeh Rezuee, Campfire USA, Ross Signorino, Chris Wilder, Henry Nguyen, Yvonne Maxwell, Andrea Putman, Ujima Adult and Family Services, The-Vu Nguyen, Vietnamese American Center, Jeff Hurd, Midnight Basketball.

Mayor Gonzales declared that Item 3.4 was a Public Hearing only, with no Council action required at this time. Staff was directed to return to Council before the September 2, 2003 Council Meeting with impact details pertaining to Parks, Recreation, and Neighborhood Services Department's level of service in regard to the elimination of three maintenance positions, including how each District is impacted, and which parks are affected; Information on which Districts will be impacted in regard to the elimination of three Library Staffing positions, and to reissue a schedule with a timeline forecast for the Operating and Maintenance impacts of the Capital Projects indicated on Attachment C of General Fund Rebalancing Plan, dated August 13, 2003.

3.5 **Approval of Mayor's Biennial Ethics Review Recommendations. (Mayor)** **(Rules Committee referral 8/20/03)**

Documents Filed: Memorandum from Mayor Gonzales, dated August 22, 2003, recommending renaming the "Ethics Board" to "San José Elections Commission"; Establish a 2004 Blue Ribbon Task Force; City Attorney to review the constitutionality of all the ethic ordinances; The City Clerk directed to remind each commission and board that it must stay within its allocated budget.

Discussion/Action: Referring to Section D, the paragraph of the Mayor's memorandum that speaks to the budget concern, Council Member Cortese remarked it seemed like the entire memorandum is related to the Elections Commission, but this is direction to the City Clerk to remind each Commission and every Board that it must stay within its allocated budget. Mayor Gonzales explained in these tough budget times, it is appropriate to send a reminder, and take this opportunity to remind Boards and Commissions that they have their budgets and are to spend within their budgets and not to exceed them. He commented that in the last election cycle, the Ethics Board exceeded its budget. City Attorney Richard Doyle remarked on the issue of the Ethics Board and their budget, the cause of that was largely due to the investigations that went well beyond what was anticipated.

3.5 (Cont'd.)

Council Member LeZotte stated in regard to the Blue Ribbon Task Force, the memorandum states the members will be nominated by the Mayor, and asked if the Mayor will be soliciting suggestions from the Council Members, and Mayor Gonzales stated yes, it is the same procedure as with other Boards and Commissions. Council Member LeZotte asked for a clarification of the intention of the Legal Defense Fund. City Attorney Richard Doyle replied there were significant investigations in the last campaign, which resulted in candidates hiring law firms to defend them, and making the choice between spending money on campaigning versus spending money on legal defense. He stated the Task Force would review the issue of how a Legal Defense Fund could be set up to allow for defense or legal representation in any proceedings before the Ethics Board. Upon motion by Vice Mayor Dando, seconded by Council Member Reed, and carried unanimously, the Biennial Ethics Review Recommendations from Mayor Gonzales were approved, and the execution authorized. Vote: 11-0-0-0.

ECONOMIC & NEIGHBORHOOD DEVELOPMENT

- 4.3 Discussion and direction to the Administration and the City Attorney's Office regarding possible revision to the City's current prohibition of the combined uses of gasoline service stations and the retail sale of food, grocery items, and alcoholic beverages contained at Section 20.80.550 of Title 20 of the San José Municipal Code. (City Attorney's Office)
(Deferred from 6/17/03 – Item 4.9)**

Documents Filed: None.

Discussion/Action: Item 4.3 was deferred to September 2, 2003.

- 4.4 Adoption of a resolution:**
- (a) Finding that solicitation of bids for the following work for the New Civic Center Project would be an idle act under the City's Municipal Code, Section 14.04.170: tenant improvements to mechanical, electrical, fire protection, and plumbing systems; and,**
 - (b) Delegating authority to the City Manager to negotiate and execute contract change orders to the following contracts to add tenant improvements to mechanical, electrical, fire protection, and plumbing systems: ACCO Mechanical, Rosendin Electric, Transbay, and KDS Plumbing, so long as the sum of all construction contract and change orders for the New Civic Center Project does not exceed the Project Budget of \$192 million, as stated in Resolution No. 71204.**

CEQA: Resolution No. 68905, PP03-08-259. (Public Works)

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated August 7, 2003, recommending adoption of said resolution.

4.4 (Cont'd.)

Discussion/Action: Mayor Gonzales called for public testimony. William Garbett spoke on the subject. Upon motion by Council Member Cortese, seconded by Vice Mayor Dando, and carried unanimously, Resolution No. 71725, entitled: "A Resolution of the Council of the City of San José Finding that Solicitation of Bids for Certain Work for the New Civic Center Project Would Be an Idle Act Under the Municipal Code Section 14.04.170, and Authorizing the City Manager to Negotiate and Execute Contract Change Orders for that Work to Specified Contractors on the Condition that the Sum of all Construction Contracts and Change Orders for the New Civic Center Project Do Not Exceed the Project Budget of \$192 Million, as Stated in Resolution No. 71204", was adopted. Vote: 11-0-0-0.

RECREATION & CULTURAL SERVICES

5.1 Report of the All Children Achieve Committee – August 14, 2003 Council Member Yeager, Chair

Documents Filed: Report of the All Children Achieve Committee Report dated August 14, 2003.

- (a) Youth Commission Report. Attachment: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara L. Hensley, dated July 15, 2003, transmitting the Youth Commission Update Report.

The Committee accepted the Report.

- (b) Continuation of Discussion on the Early Care and Education Strategic Workplan

The Committee accepted the Report.

- (c) Report on School Traffic Safety Program

The Committee accepted the Report. See Item 6.2 for Council Action taken.

- (d) Oral petitions

None.

- (e) Adjournment

The meeting was adjourned at 3:52 p.m.

Discussion/Action: Upon motion by Council Member Yeager, seconded by Council Member Chavez, and carried unanimously, the All Children Achieve Committee Report, and the actions of August 14, 2003, were accepted. Vote: 11-0-0-0.

5.2 Approval to develop a Prioritization Process to strategically implement the City's Trail Program utilizing the two supporting processes:

- (a) An Annual Work Plan to accomplish Greenprint strategic goals.**
- (b) A strategy for developing a Grant-Seeking Work Plan that supports delivery of the Annual Work Plan.**

(Parks, Recreation and Neighborhood Services)

[Building Strong Neighborhoods Committee referral 6/16/03 – Item 4.1(d)]

(Deferred from 6/24/03 – Item 4.9 and 8/12/03 – Item 4.3)

Documents Filed: (1) Memorandum from Director of Parks, Recreation and Neighborhood Services Sara L. Hensley, dated August 12, 2003, recommending approval to develop a Prioritization Process to strategically implement the Trail Program. (2) Memorandum from Deputy City Manager Jim Holgersson, dated June 20, 2003, transmitting Staff's presentation to the Building Stronger Neighborhoods Committee regarding the status on the programs of the trails system.

Discussion/Action: Deputy Director of Parks, Recreation and Neighborhood Services Scott Reese gave a brief overview presentation of the Trail Program Prioritization process. Council Member Yeager moved approval of the Staff recommendation. Vice Mayor Dando seconded the motion. Deputy Director Reese stated Parks, Recreation and Neighborhood Service stated Staff received notification for grants from the County of Santa Clara for \$2 million, \$1 million from Open Space Authority, and \$300,000 from the Santa Clara Valley Water District for the acquisition of the Willow Glen Spur project. He stated Staff has also received preliminary notification from Santa Clara Valley Water District of a \$250,000 grant from the Santa Clara Valley Water District, and \$600,000 from the Open Space Authority for the Selma Olinder Park and Trail Development project, and \$250,000 from the Santa Clara Valley Water District for the Dover Pedestrian Bridge and Trail improvements. Council Member Yeager asked what is the strategy with the State Proposition 40 dollars, and when will the Legislature be allocating those dollars. Deputy Director Reese replied there are several sources of funds through Proposition 40 for which trail development can be considered an opportunity, and Staff has received notification from the State for different allocations of funds, and will be receiving approximately \$4 million through that particular program. Council Member Gregory expressed concern that as the community makes decisions, all the information is in front of them when they make that decision. Deputy Director Reese stated Staff will endeavor to always fully disclose whatever the impacts are anticipated to be, to develop the best alignment and design for a trail that is possible, and that has the minimum amount of impact both on the natural environment but also on the community as well.

Mayor Gonzales remarked it is important for the community to understand that their role is to set out preferences and to advise the City, but the City will ultimately decide. He commented Staff must ensure that the community is receiving the City's input and the community recognizes their role in this process. On a call for the question, the motion carried unanimously, and the Staff recommendation to develop a Prioritization Process to strategically implement the City's Trail Program was approved. Vote: 10-0-1-0. Absent: Chavez.

5.3 Approval of the Mabury Park/Penitencia Creek Trail Reach 6 Master Plan. CEQA: Mitigated Negative Declaration, PP03-04-134. Council District 4. (Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara L. Hensley, dated August 6, 2003, recommending approval of the “Mabury Park/Penitencia Creek Trail Reach 6 Master Plan, June 30, 2003”, attached.

Discussion/Action: Deputy Director of Parks, Recreation and Neighborhood Services Scott Reese gave a brief presentation of the Trail Program Prioritization process. Council Member Chavez remarked that one of things she is noticing on the Guadalupe River Park trails as they are being completed, is there are many different kinds of uses on the trails, and asked if Staff has been working on strategies to integrate different kinds of activities on the trails. Director of Parks, Recreation and Neighborhood Services Sara L. Hensley replied Staff uses standards that were accepted by the County of Santa Clara, and the City of San José has been using those standards for over 20 years, and part of that is to develop multi use trails. She stated Staff is recommending a trail that is wide enough to accept the many types of uses, i.e. bikers, pedestrians with a stroller, and multi use means equestrian. She stated the idea is that the trail is wide enough so that an area is set aside where people can go around or follow behind, depending upon the use. She stated Staff is reviewing issues where there is a concern raised by the community when they do not want a certain user on that trail. She stated that is difficult for Staff when trails are designed or built into as a community process, it needs to be multi use which was accepted by the majority of the community, then that defines the use.

Council Member Chavez commented that in order to keep the trails busy Staff needs to encourage different types of activity. She expressed concern about the width of the trail, etiquette and a mechanism for educating people on an ongoing basis, and asked how Staff will be able to integrate all those uses. Director of Parks, Recreation and Neighborhood Services Sara L. Hensley replied that the width of the trail is important, and sometimes trails are designed with more pavement on one side, keeping the other side a more natural, gravel type trail for other types of uses. Deputy Director of Parks, Recreation and Neighborhood Services Scott Reese stated the issue of multi use trails and the right of way or proper etiquette of the trails has been a significant issue the last 10 to 15 years in the trail community. He stated there are some standards evolving but they are somewhat different from region to region, and the many different trail groups and organizations are brought together to buy in to the standards and the use as peer groups to educate the community.

Mayor Gonzales commented as a frequent user of the Los Gatos Creek trail, he felt Staff should interview some of the users, but not to over-regulate the use of the trails. He stated the Los Gatos Creek trail has multi use and it works. Vice Mayor Dando remarked as Staff begins to widen these trails, it is important to remember for horses to use the trails they have to be natural, and it is not safe for them to be on another type of material. She stated another trail user in the south part of South San José is the noisy scooters in environmentally sensitive areas, spooking people and horses, and requested Staff to look into this issue.

5.3 (Cont'd.)

Council Member Reed stated he has been on almost every trail segment in the Bay Area, and this whole issue of multiple uses is really not a problem, and it is working. He also stated in due time there will be a final public naming process of the park. Mayor Gonzales called for public testimony. Dale Warner spoke in opposition to the issue. Upon motion by Council Member Reed, seconded by Council Member Campos, and carried unanimously, the Mabury Park/Penitencia Creek Trail Reach 6 Master Plan was approved, with staff to address the “noisy scooter” problem in an environmentally sensitive area of South San José, at a future date. Vote: 11-0-0-0.

- 5.4 (a) **Adoption of a resolution authorizing the City Manager to immediately begin the process of re-opening the Strong Neighborhoods Action and Pride (SNAP) special emphasis grant allocation process for Cycle 17, as approved at the May 6, 2003 City Council meeting.**
- (b) **Approval to award SNAP grants of up to \$198,842, and recommendation that the remaining SNAP funds of at least \$130,000 be held to mitigate possible additional funding reductions.**

CEQA: Resolution No. 71042, PP03-08-258. Council Districts 1, 3, 5, 6, 7, 8, and 10. SNI: Blackford, Burbank/Del Monte, Delmas Park, East Valley/680, Gateway East, Greater Gardner, Hoffman/Via Monte, KONA, Spartan/Keyes, Tully/Senter, and Winchester. (Parks, Recreation and Neighborhood Services)

Documents Filed: Memorandum from Director of Parks, Recreation and Neighborhood Services Sara L. Hensley, dated August 13, 2003, recommending adoption of said resolution, and approval to award Strong Neighborhoods Action and Pride (SNAP) grants up to \$198,842, and remaining SNAP funds of at least \$130,000 be held to mitigate possible additional funding reductions.

Discussion/Action: Council Member Gregory remarked that two weeks did not seem like enough time to communicate with all the Strong Neighborhood groups, and the memorandum states by the time the SNAP program was frozen there were six groups that had submitted applications out of eight. He asked if the SNI groups that have not submitted their application will have an opportunity to do so. Director of Parks, Recreation and Neighborhood Services Sara L. Hensley replied this a process where some of the Neighborhood groups received a certain amount of allocated funding previously, and the Neighborhood groups prior to that received a lump sum amount of money and are not eligible for this program. Director Hensley stated six Neighborhood groups submitted their information early, but all of the groups are aware that this program has been opened up for two weeks. She stated there is a list of the original Strong Neighborhood groups that are eligible for funding, others that received money prior to this program, so Staff is not leaving any groups out of the program. Council Member Gregory asked if Staff is confident that two weeks is enough time for the rest of the Neighborhood groups to prepare and submit the application. Director Hensley replied Staff is confident the time period is sufficient and will be working with the Community Coordinators to offer any assistance.

5.4 (Cont'd.)

Mayor Gonzales called for public testimony. William Garbett spoke in opposition of the issue. Upon motion by Council Member Chavez, seconded by Council Member LeZotte, and carried unanimously, Resolution No. 71726, entitled: "A Resolution of the Council of the City of San José Adopting a Resolution Authorizing the City Manager to Immediately Begin the Process of Reopening the Strong Neighborhoods Action and Pride (SNAP) Special Emphasis Grant Allocation Process for Cycle 17, as Approved at the May 6, 2003 City Council Meeting", was adopted, and approval to award SNAP of up to \$198,842, and remaining SNAP funds of at least \$130,000 be held to mitigate possible additional funding reductions, was approved and its execution authorized. Vote: 10-0-1-0. Absent: Chirco.

TRANSPORTATION SERVICES

6.2 Presentation on School Traffic Safety Program. (Transportation) [All Children Achieve Committee referral 8/14/03 – Item 5.1(c)]

Documents Filed: Memorandum from Assistant to the City Manager Deanna Santana, dated August 22, 2003, transmitting the Report on the School Traffic Safety Program.

Discussion/Action: Division Manager Department of Transportation Laura Wells gave an overview presentation on the School Traffic Safety Program. She reported the City has purchased 32 radar speed display signs which will be installed at various school locations by the beginning of the school year. She stated that pavement-embedded crosswalk lights would be installed in 10 locations by the end of the 2003-2004 school year. She reported the Street Smarts/Back to School Program is preparing a Back to School Safety Campaign which will be made at approximately 86 schools, and special Bicycle Rodeos will be conducted at 10 schools identified as Street Smarts performance measurement locations. She remarked the Police Department would conduct special enforcement effort to remind motorists and pedestrians to obey school zone requirements.

Mayor Gonzales remarked that this was a presentation only, and there is no Council action required.

PUBLIC SAFETY

9.1 Approval of a sole source purchase of 567 Motorola XTS3000 portable radios and 300 batteries from Motorola C & E, Inc., (San Mateo, CA) for a total cost not to exceed \$1,111,403.56, including tax and delivery, and authorization for the Director of General Services to execute the purchase order. CEQA: Not a Project. (General Services)

9.1 (Cont'd.)

Documents Filed: Memorandum from Director of General Services Jose Obregon, dated August 6, 2003, requesting approval of a sole source purchase of 567 Motorola XTS3000 portable radios and 300 batteries from Motorola C & E, Inc., for a total cost not to exceed \$1,111,403.56, and authorization for the Director of General Services to execute the purchase order.

Discussion/Action: Mayor Gonzales called for public testimony. William Garbett spoke in opposition of the issue. Upon motion by Council Member Williams, seconded by Council Member Chavez, and carried unanimously, the sole source purchase from Motorola E&E, Inc., for a total cost of not to exceed \$1,111,403.56 was approved and the execution of the purchase order authorized. Vote: 11-0-0-0.

9.2 **Report on bids and award of contract for the Fire Station No. 4 Upgrade Project to the low bidder, D.L. Falk Construction, Inc., in the amount of \$754,813, and approval of a contingency in an amount of \$113,222. CEQA: Exempt, PP02-12-389. Council District 6. SNI: Burbank/Del Monte. (Public Works/Fire)**

Documents Filed: (1) Memorandum from Director of Public Works Katy Allen, dated August 6, 2003, recommending award of contract, with related contingency, to the low bidder, D.L. Falk Construction, Inc., for the Fire Station No. 4 Upgrade Project. (2) Supplemental memorandum from Acting Fire Chief Dale E. Foster, and Director of Public Works Katy Allen, dated August 19, 2003, transmitting additional information after the bids were opened.

Discussion/Action: Council Member Yeager asked about the coverage of this area when the construction is taking place, and whether a portable station will be placed there enabling the company to remain and operate. Acting Deputy Fire Chief Nick Thomas replied the remodel is phased in such a way to allow Engine No. 4 to remain in quarters at Station No. 4 for as long as possible. He remarked the primary concern is being able to respond to the community it serves, and retaining Engine No. 4 in quarters for the duration should keep the coverage adequate for the neighborhood. Additionally, he stated a trailer at Fire Station No. 4 will be provided, and it will have a kitchen and a small dining room area, and the trailer will not only serve the fire fighters, but also the citizens that need to come to the Fire Station 24 hours a day for any type of service. He stated that Engine No. 4 would be temporarily relocated to Fire Station No. 30 when that particular stage in construction is reached in order to keep the progress moving on the remodel. Council Member Yeager asked if Station No. 30 is large enough to handle the extra company. Acting Deputy Fire Chief Thomas replied Station No. 30 is capable of housing two companies, and from an operational point of view, Engine No. 4, will spend daylight business hours at Fire Station No. 4 conducting daily business, and the nighttime hours quartered at Fire Station No. 30. Upon motion by Council Member Yeager, seconded by Council Member LeZotte, and carried unanimously, the award of the contract to the low bidder, D.L. Falk Construction, Inc., with related contingency, was approved and the execution of the agreement authorized. Vote: 10-0-1-0. Absent: Cortese.

**9.3 Pilot Volunteer Crossing Guard Program in Council District 5. (Campos)
(Rules Committee referral 8/20/03)**

Documents Filed: Memorandum from Deputy City Manager Edward K. Shikada, dated August 21, 2003, recommending authorization to the City Manager to negotiate and execute a cooperation agreement with the Alum Rock School District to establish a Pilot Volunteer Crossing Guard Program in District 5.

Discussion/Action: Council Member Campos stated this issue is in regard to public safety, and for the children in the community finding safe routes to school. She remarked that working in the community for approximately 8 years prior to becoming a Council Member, the major issue concerning constituents in her District, is that the children do not have a route to cross the streets safely. She stated when she began working with the community, she made a commitment that she would be their voice at City Hall, to form a possible volunteer crossing guard program for the intersections that do not quite qualify for a crossing guard within the City of San José. She recommended that Staff negotiate and execute a cooperation agreement with the Alum Rock School District to establish a Pilot Volunteer Crossing Guard Program in District 5, and return to Council with a report in 6 months. Upon motion by Council Member Campos, seconded by Council Member Chavez, and carried unanimously, the agreement with Alum Rock School District was approved and execution of the agreement was authorized. Vote: 9-0-2-0. Absent: Cortese, Yeager.

OPEN FORUM

(1) Gregory Colburn spoke on the issue of retaining card room employees.

ADJOURNMENT

The Council of the City of San José adjourned in memory of Laura Lemon Murray, a devoted mother, dedicated community advocate, resident of District 7, an exemplary educator at K.R. Smith Elementary School, and a nurturing friend to all.

The Council of the City of San José adjourned at 3:40 p.m. to Thursday, August 28, 2003, 9:00 a.m., for a Special Meeting at the San José McEnery Convention Center, Room B.

RON GONZALES, MAYOR

ATTEST:

PATRICIA L. O'HEARN, CITY CLERK

smd/08-26-03min